## REMARKS

The Applicant respectfully submits this Amendment in response to the final Office Action dated March 15, 2005.

By this Amendment, claim 1 is amended to add certain limitations that were previously recited in dependent claims 2 and 23. Specifically, claim 1 is amended to recite the step of "applying a carrier coating to the medical device," as previously recited in dependent claim 2, and to recite the limitation "wherein the carrier coating is applied to the medical device prior to the therapeutic being transferred from the supercritical fluid to the medical device," as previously recited in dependent claim 23. Correspondingly, claim 2 is amended to delete the step of "applying a carrier coating to the medical device" (since it is now recited in claim 1), and claim 23 is canceled.

The Applicant respectfully request entry of this Amendment under 37 C.F.R. § 116 and MPEP § 714.12. As set forth in MPEP § 714.12, this Amendment "removes issues for appeal" by incorporating limitations from dependent claims into a finally rejected independent claim from which those claims depended. Claim 23 depended from claim 2, which in turn depended from claim 1. No new issues are presented for examination, since all of the limitations now recited in amended claim 1 were previously included among the limitations in dependent claim 23, which was already examined. Accordingly, entry of this Amendment is respectfully requested.

After entry of this Amendment, only two independent claims will be pending, claim 1 and claim 12. Claim 12, as well as the claims that depend from claim 12, have been allowed.

With respect to claim 1, since all of the limitations now recited in amended claim 1 were previously included among the limitations in claim 23, the rejection as previously applied to

claim 23 is addressed herein. Claim 23 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Greiner (EP 405 284 A2) in view of Allen et al. (US 6,495,204) and Smith (US 4,734,451) and further in view of Scott et al. (US 5,383,928), Lambert (US 5,900,246), and Davidson (US 5,954,724).

Claim 23 recited (and now claim 1 recites) the limitation "wherein the carrier coating is applied to the medical device **prior** to the therapeutic being transferred from the **supercritical fluid** to the medical device." In the rejection of claim 23, the Examiner referred to Paragraph No. 6 of the Office Action mailed October 19, 2004, in which the Examiner pointed to the Scott reference for this limitation. Specifically, the Examiner cited column 3, lines 49-69, of the Scott reference, which states the following:

> The concept of coating a stent with a polymer has been described several years ago and is discussed in the literature regularly. In the past, local delivery of drug(s) using stents has centered around **two concepts**: (1) directly coating the stent wires with a drug or a drug-polymer combination (Bailey et al., Circulation 82:III-541 (1990); Cavendar et al., Circulation 82:III-541 (1990)) and (2) incorporating a drug into a stent that was constructed not of metal but of a biodegradable polymer (Murphy et al., J. Invasive Cardiol. 3:144-148 (1991)). Most investigators and stent companies have focused their efforts on directly coating the metal stent wires with a polymer. This polymer is usually placed directly on the stent (e.g., by dipping the stent in soluble polymer) or is covalently bound to the metal. The polymer is bonded to or contains an anticoagulant compound. Most coated stents currently under development use heparin as their active agent. One of the more effective polymer coatings for stents is Biogold (van der Giessen et al., Circulation 82: III-542 (1990)).

Scott, col. 3, lines 49-69 (emphasis supplied).

The Applicant respectfully submits that Scott discusses "two concepts" for coating a stent -- (1) coating the stent with just a drug or with a "drug-polymer **combination**" -- wherein the drug and polymer are together in a "**combination**" when applied to the stent and are therefore

simultaneously applied to the stent, or (2) coating the stent by incorporating a drug into a stent that is constructed of a biodegradable polymer. As is clear from the context of this paragraph in the Scott reference, the sentences following the description of these "two concepts" merely elaborate on these "two concepts." For example, the paragraph states that "[t]he polymer is bonded to or contains an anticoagulant compound." It is clear that this is describing examples of forming a "drug-polymer combination" prior to coating, with the "combination" then coated to the stent in accordance with one of the disclosed "two concepts." The Scott reference does not disclose or suggest the **separate** steps of "applying a carrier coating to the medical device" and then "transferring the therapeutic ... to the medical device," "wherein the carrier coating is applied to the medical device **prior** to the therapeutic being transferred ... to the medical device." The word "prior" in the claim makes clear that these steps are separate. Moreover, Scott does not disclose using a "supercritical fluid" for transferring therapeutic to a medical device that, prior to applying the therapeutic, has been coated with a carrier coating. Similarly, the Applicant respectfully submits that neither Greiner nor the other references of record suggest the Applicant's invention of the separate steps of "applying a carrier coating to the medical device" and **then** "transferring the therapeutic from the supercritical fluid to the medical device," "wherein the carrier coating is applied to the medical device **prior** to the therapeutic being transferred from the supercritical fluid to the medical device."

For the foregoing reasons, the Applicant respectfully requests entry of this Amendment and reconsideration of all pending claims. Should any questions arise, the Examiner is invited to contact the undersigned at the number given below. The Commissioner is authorized to charge any necessary fees or to credit any overpayment to Deposit Account No. 11-0600.

Respectfully submitted,

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